IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.47370 of 2008
KAILASH YADAV @ KAILU YADAV,
Son of Sri Chhatar Yadav,
Resident of Village- Gambhira,
P.S.- Mohanpur, District- Gaya :---- Petitioner.
Versus
STATE OF BIHAR:-----Opposite Party.

For the petitioner : Mr. Dinesh Singh, Senior Advocate.
For the Opposite Party : Mr. Nitya Nand Tiwari, A.P.P.

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2. *17.12.2008.* Heard learned counsel for the petitioner and the State.

Petitioner is an accused in a case under Section 302/34 of the Penal Code and is named in the First Information Report along with four others. It appears petitioner and others named in the First Information Report had taken the victim along with them. The same night he was recovered in injured condition and taken to hospital but could not survive the gun shot injury. It is submitted on behalf of the petitioner that another co-accused Beni Yadav @ Birendra Yadav @ Birendra Kumar has since been admitted to the privilege of bail by another Bench of this Court under orders dated 22.10.2008 passed in Cr. Misc. No. 54618 of 2007 and with reference to the said order it is submitted that petitioner's case is on better footing than Beni Yadav as Beni Yadav confessed his guilt that he shot the deceased.

The informant has only witnessed the removal of the deceased by the petitioner and others named in the First Information Report thereafter the informant and witnesses are not aware as to how and by whom the deceased was shot. In the circumstances, those who have taken the deceased are equally responsible for his killing and, accordingly, this application is rejected.

(V.N.Sinha,J.)

P.K.P.

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